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doctrine." He then proceeds to criticise the doctrine upon much the same lines as those suggested in Mr. McMURTRIE'S article, and to demonstrate the futility of attempting to apply the doctrine in all its breadth, by bringing together the line of cases in which the courts have modified and limited and restricted it almost beyond recognition. The gist of his opinion, as of Mr. McMURTRIE'S article, is the recognition of the principle that in forcing a stockholder to pay unpaid installments the Court is simply compelling him to make good his representations. It is an interesting matter for speculation whether or not counsel who argued the case of Hospes *v.* Car Co. had seen the article in question and had directed the mind of the Court into the channel indicated in the opinion—or whether the Court itself had seen the article and had been influenced by the force of the arguments—or whether, in fine, Judge MITCHELL and Mr. McMURTRIE arrived at substantially the same result by independent reasoning.

In any event, the lawyer who gives his attention to the investigation of this doctrine will find it hard to withstand the logic of Mr. THACHER, of Mr. McMURTRIE and of Judge MITCHELL, and will, we feel confident, be inclined to agree with us in thinking that the Supreme Court of the United States may, before long, be confronted with a case in which the facts will be such that an adherence to the principle of Handley *v.* Stutz would result in a palpable miscarriage of justice.

BOOK REVIEWS.

A MANUAL OF MEDICAL JURISPRUDENCE. By ALFRED SWAIN TAYLOR, M.D., F.R.S. Revised and edited by THOMAS STEVENSON, M.D., London. Eleventh American, edited with citations and additions from the twelfth English edition, by CLARK BELL, ESQ., President of the American International Medico-Legal Congress of 1893. 787 pages, 56 illustrations. Philadelphia: Lea Brothers & Co., 1892.

The fact that this work has gone through twelve English editions is, to say the least, *prima facie* evidence of its original worth. It is stated

in the preface to the latest English edition that the work "has undergone an entire revision and all references have, when possible, been verified; . . . that many parts have been amended, much new matter added and some parts entirely rewritten." The American editor repeats the above statements in substance, and states further that "in making additions upon legal questions and the present state of the law bearing upon medico-legal matters, the editor has carefully [*sic*] cited nearly 700 cases and authorities to aid counsel in preparing briefs, and to extend the means of information for medico-legal jurists." The editor acknowledges his obligations to the editors of previous American editions; but it does not appear that any one else is responsible for the present edition.

We have examined all the matter in the present edition, which is included within brackets, thus [ ], upon the assumption that such matter, as is customary, represents the additions made by the American editor; and while much has been added that is of value, candor compels us to state that the work does not fully and fairly represent the existing state of knowledge upon this important subject.

The work of the English editor, while good so far as it goes, is incomplete and insular, and some important topics which at present claim a large share of the attention of medico-legal jurists are not even referred to in the index and, therefore, presumably not in the text, by either editor. Such is the case with ptomaines, hypnotism and insanity manifesting itself in sexual perversion, as in the case of Alice Mitchell, tried not long since in Memphis, Tenn., which trial attracted great attention. The work does not show such careful and exhaustive examination of the field of periodical literature as the professions of law and medicine have a right to expect in a work of such pretentions.

Let us particularize a little further:

Under the head of "Compensation of Experts" no reference whatever is made to the case of Wright *v.* The People, 112 Ill., 540, decided in 1884, nor to contracts for compensation conditional upon the success of the suit.

Under the head of "Expert Evidence," on pages 60–61, on the other hand, a large number of cases are cited which have no possible reference to medical jurisprudence and might well have been omitted.

On page 46 the American editor states that "medical works are so contradictory and confusing that courts are disinclined to allow them to be read in evidence, as they tend to confuse and mislead juries." The reasons for their exclusion are quite different. The principal reason is that they are at best hearsay evidence of that which living witnesses, who can be subjected to cross-examination, can be produced to prove. See Rogers' "Expert Testimony," 2d ed., p. 405, where all the reasons are fully stated. Medicine as well as law is eminently a progressive science, and we venture the assertion that medical treatises are not more confusing and contradictory than, if so much, as are legal treatises. While we are well acquainted with the many *obiter dicta* to be found in the books concerning expert testimony, the statement of the American editor, on page 59, that "the trend of judicial thought in America and England is that the mere opinions of medical experts are of little or no

value," etc., is so palpably untrue and unjust that we cannot but wonder that its author, who revels in that field, should have been guilty of its perpetration. We do not wish to be unduly severe with the work of the American editor, but we cannot forget that in Vol. 2, p. 182, of the *Medico-Legal Journal*, of which he then was and still is the editor, he, a non-medical man, essayed to review an original article in the *Rivista Clinica*, of Turin, by Professor Ceccherelli on "Nephrectomy; or, Extirpation of the Floating Liver." [*sic*] Not only does he there describe this operation as "the extirpation of the floating liver," but in the course of his review he becomes more specific and describes the operation as the extirpation of the right liver," [*sic*] etc., from which we are to infer either that this was a case of duplication of viscera, or that there are actually two livers. This review was made the subject of so much merriment at the hands of the medical profession that we cannot feel astonished that some degree of rancor should yet remain in his bosom toward that profession. The truth is, that in the great development of modern scientific thought it is perilous to venture beyond the domain of one's immediate sphere of activity. We have noticed repeatedly how apt too many lawyers are to acquire the whole science of medicine in a week, when required by the exigencies of a particular case; and, on the other hand, how readily too many physicians assume to decide disputed questions of law which the courts not infrequently desire reargued by learned counsel before rendering a decision.

But returning to the subject-matter under consideration, the additions and amendments of our author, we find on page 277 this reference to the work of Dr. Richardson, of Philadelphia: In identifying blood, he is quoted as using *high powers* of the microscope up to 750 diameters, etc. This statement is incorrect, as 750 diameters is only a medium power. Dr. Richardson advocated the use of from 2500 to 5000 diameters. While upon this subject, the identification of blood, we cannot understand why this edition has not been enriched by the reproduction of some of the splendid photographic work of Dr. Woodward, Dr. Treadwell and others, and why no reference has been made to the celebrated controversy between Dr. Woodward and Dr. Richardson, and to the elaborate testimony of Dr. Woodward in the Hayden murder case in 1879, which are classics on this subject. No reference is made to the celebrated Dr. Cronin case, in which, also, the same questions arose, nor to the excellent article by Dr. M. C. White, in *Wood's Reference Hand-Book of the Medical Sciences*. These and other omissions detract greatly from the value of the discussion of this subject.

On pages 288-289 we find no reference to the articles of Dr. H. N. Moyer on shock, nor under the head of injuries to the spine do we find any reference to the work of Clevinger and others, which certainly deserve a place in the discussion.

On page 356 we find a reference to the case of Holtzman *v.* Hoy (not Hey), 19 Ill. App., 459, but no reference to the same case on error in the Supreme Court of the same State reported in 118 Ill., 534.

Under the title "Gun-shot Wounds," we find no reference whatever to the literature on the effect of the new small calibre projectiles now in use in continental Europe. Again, on page 366, we find the statement

that "a common bullet is formed entirely of lead," a statement now rarely true of modern projectiles.

Under the head of "Starvation," we find no reference to the case of Griscom, ably reported by Dr. Lester Curtis, of Chicago, which report is easily accessible in the *Proceedings of the American Society for the Advancement of Science.*

Under the head, "Evidence from Parental Likeness," we find no reference to Hanawalt *v.* the State, 64 Wis., 84, and other American cases on this subject.

The above and foregoing are only a few of the many sins of omission and commission to be found in the present volume. We think that from the above references, which can easily be verified, it is quite apparent that this edition has been very carelessly edited and that while valuable, (few books are wholly worthless) it is not nearly so valuable as it would have been if more ably and conscientiously edited.

The Kent Law School, MARSHALL D. EWELL, M. D.
Chicago, January 11, 1893.

FOSTER'S FEDERAL PRACTICE IN CIVIL CAUSES, with special reference to Patent Cases and the Foreclosure of Railway Mortgages. Second Edition. By ROGER FOSTER. 2 vols. Boston: The Boston Book Company, 1892.

We are glad to see that the profession by its appreciation of usefulness of FOSTER'S "Federal Practice" has exhausted the first edition, and thereby given the author an opportunity to enlarge and improve his work. As he says in his preface to the present edition: "Many of the original sections have been rewritten and new sections have been added to the original chapters, including all material statutes and decisions passed or reported before October Term of 1891, and many decisions since that date which have been added while the book was in the press." Things look differently in print than in manuscript, and it goes without saying that this careful revision of the whole work from the first edition has greatly added to its value. In fact, such a revision was rendered imperatively necessary by the passage of the Act creating the new Circuit Court of Appeals and radically changing the jurisdiction and practice affecting appeals and writs of error.

New chapters have also been added on "Practice in Admiralty," by CHARLES C. BURLINGHAM; "Practice in the Court of Private Land Claims," by ex-Judge E. A. BOWERS, and "Practice in the Court of Claims." These additions make the work practically complete, and every lawyer having business in Federal courts will find this second edition an indispensable requisite for his library.

THE LAW OF COLLATERAL ATTACK ON JUDICIAL PROCEEDINGS. By JOHN M. VANFLEET, Judge of the Thirty-fourth Judicial District of Indiana. Chicago: Callaghan & Company, 1892.

This work is one of the most welcome which we have received. The subject of collateral attack on judicial proceedings has heretofore been